

Competition, Investment, Trade and Development

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**Creating a Dynamic Environment for Business in the Mena Region:
Challenges and Priorities**

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Issues to be addressed

- 1) **Trade** and Development
- 2) **Competition** and Development
- 3) **Investment** and Development
- 4) **Competition** and **Investment**
- 5) Competition and **International Trade**



65 New Competition Laws in the Last Decade (1996-2006)

1996 Hungary, Zimbabwe, Panama, Romania, Costa Rica, Guatemala, Mercosur.....	7
1997 Netherlands, Denmark, Faroe Islands, Turkey ,.....	4
1998 Bulgaria, Gabon, Cameroon, Malawi, South Africa, Bulgaria...	6
1999 Belgium, Indonesia, Thailand, Slovenia, Saint Vincent.....	5
2000 Armenia, Morocco , Lithuania, Moldova, Uruguay, Cape Verde, Fiji, Uruguay.....	8
2001 Slovakia, Ukraine, Kazakhstan, Saint Lucia, Antigua and Barbuda.....	5
2002 Austria, Azerbaidjan, Latvia, Barbados, Papua New Guinea..	5
2003 Albania , Algeria , Mauritius, Namibia, Tanzania, Ethiopia, Bosnia Herzegovina.....	7
2004 Jordan, Laos, Saudi Arabia , Vietnam, Jersey, Luxembourg, Singapore, Namibia, El Salvador, Paraguay.....	10
2005 Serbia, Macedonia, Honduras, Egypt , El Salvador,.....	5
2006 Montenegro, Nicaragua, Colombia.....	³3

Competition Law Revisions in 44 Countries

1997 Cameroon, Ivory Coast, Azerbaidjan3

1998 Estonia, UK..... 2

1999 Cyprus1

2000 Poland, Denmark, Brazil 3

2001 Burkina Faso, Estonia, Malta,Ukraine, Argentina 5

2002 India, Ireland, UK, 3

2003 Albania,Portugal, Bulgaria, Croatia, Chile 5

2004 Czech Republic, Finland, Latvia, Norway, Slovenia, Chile, Venezuela7

2005Turkey, Bosnia Herzegovina, Portugal, Argentina, Brazil, Peru,
Uruguay, Andean Community..... 8

2006 Kazakhstan, Austria, Belgium, Russia, **Turkey**, Mexico.....6

2007 Spain..... 4
1

As of 2008, 18 Countries in the Process of Adopting a Competition Law

Bolivia

Cambodia

China

Dominican Republic

Ecuador

Ghana,

Guyana,

Hong Kong

Lesotho

Lebanon

Mozambique

Nigeria

Swaziland

Syria

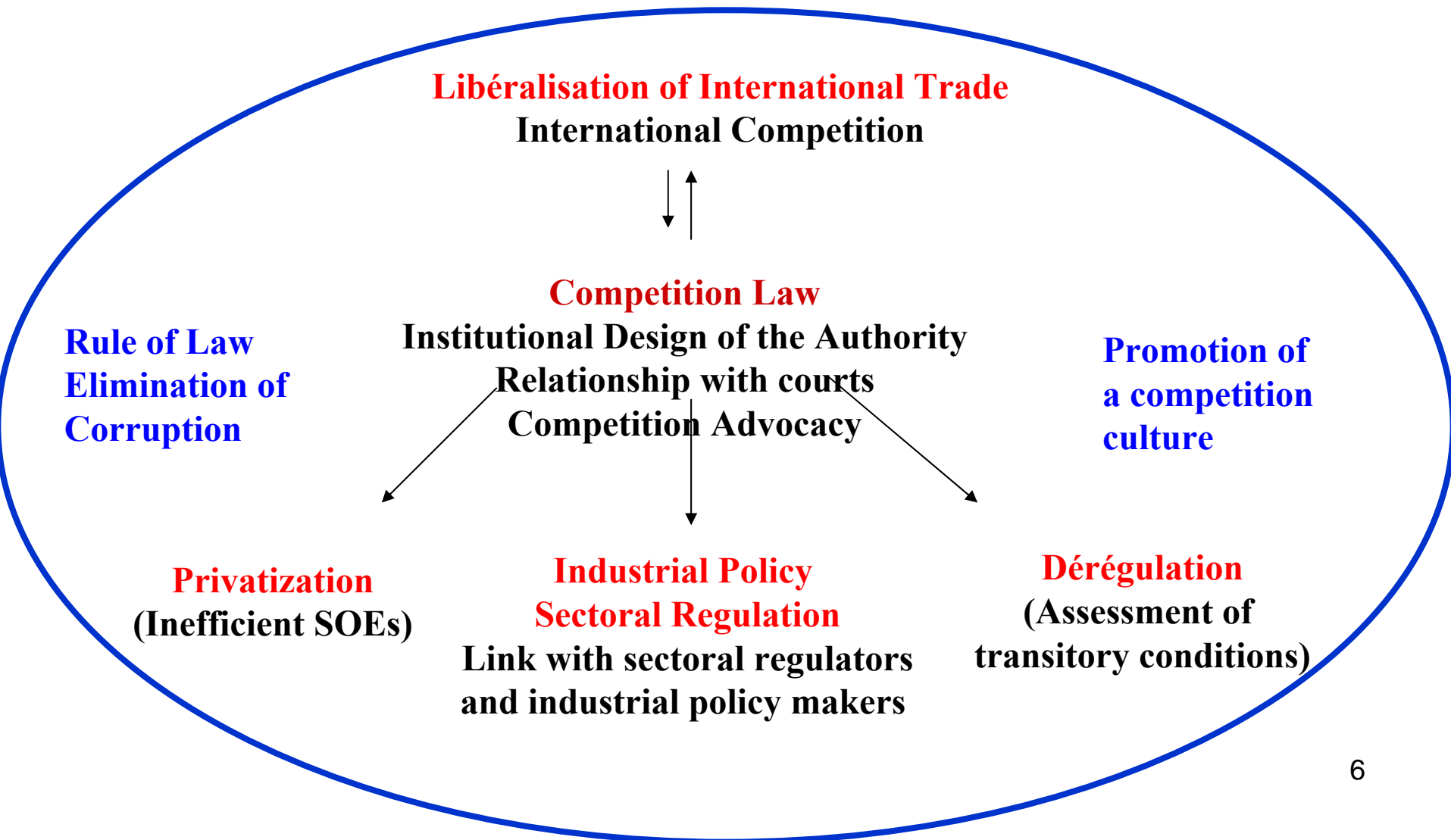
Togo,

Trinidad and Tobago

United Arab Emirates

Yemen

Competition Policy



Libéralisation of International Trade
International Competition



Competition Law

Institutional Design of the Authority

Relationship with courts

Competition Advocacy

Rule of Law
Elimination of
Corruption

Promotion of
a competition
culture

Privatization
(Inefficient SOEs)

Industrial Policy
Sectoral Regulation
Link with sectoral regulators
and industrial policy makers

Dérégulation
(Assessment of
transitory conditions)

1) Trade and Development

Trade and Poverty in the Poor Countries¹

« **Practically no country that has been close to autarkic has managed to sustain a high growth performance over a sustained period.**(...) Dollar and Kraay² note that if one classifies countries into globalizers and non globalizers by reference to their relative performance in raising the trade share in GNP during 1977-1997, the former group has shown higher growth rates. »

The vast majority of the world's poor live in the rural areas of **China** and India. During **1980-2000 real GDP grew rapidly** in both countries (10% annually in China and 6% in India). The effect on reduction in poverty in both countries was dramatic in keeping with the hypothesis that growth is a principal driver of poverty reduction. **Between 1978 and 1998 the incidence of poverty in China, declined from 28% to 9% and from 51% to 27% in India**

1) J. Bhagwati and T.N. Srinivasan, AER, May 2002, p180

2) D. Dollar, A. Kraay, Spreading the Wealth, Foreign Affairs Jan 2002

Unequal Benefits of Globalization for Developing Countries ¹

« **There is compelling evidence that globalization has played an important catalytic role in accelerating growth and reducing poverty in developing countries.** Its impact on inequality is more complex. Global inequality has been reduced because of the inclusion of the most populous developing countries in the benefits of globalization but **many countries are still falling behind** and there has been some inequality in countries with a large number of poor. **Globalization has put a premium on good governance-or conversely increased the costs of weak governance characteristics of many poor performing economies « left out » by globalization »**

2) Competition and Development

Competition and Development

In all countries, lack of competition results in two types of abuses:

-Exclusionary practices such as refusal to give access to essential facilities, tying, predatory pricing (thus **depriving potential competitors from legitimate economic opportunities**)

-Exploitative practices such as abusively high prices, price fixing, tying, lower quality/price ratios (thus **depriving consumers from the benefits of competition**)

Developing countries are often the victims of such practices:

-Because of the **high level of concentration in some sectors** (due to the small size of the economy);

-Because of the **small size of the business community** and lack of incentive to compete domestically;

- Because they are exposed to **transnational anticompetitive practices**

-Because, often they **do not have a competition law to sanction abusive practices or lack enforcement means.**

Sectors Subject to Anticompetitive Practices which Affect the Welfare of Consumers

Many anticompetitive practices are alleged in sectors sheltered from international competition in developing countries such as:

Local agriculture and local fishing

Local telephony

Construction materials

Electricity

Water

Bus and rail transportation (Matutu, taxis, buses)

Local wholesale and retail trade

Real estate

Services (lawyers etc...)

Exploitative uses of market power in Yemen ?

SANA'A, Jan. 18 2009— Although the price of wheat has dropped almost 60 percent on the international level since early 2008, Yemeni importers and wholesalers are creating price hikes to increase their profits, say retailers.

Last week, the price of wheat witnessed an unjustified increase. In two weeks, the price of a 50-kilo sack of wheat has increased from YR 4,200 to almost YR 6,000, four times its price in 2007. People accuse the government of carelessness and of not taking strict measures against powerful merchants who play with the price of this important commodity.(...) . In remote villages, the high price of food has led families to regularly skip meals and spend over two-thirds of their income on food, forcing some to pull children out of school because they cannot afford it, according to a recent assessment by the World Food Program.¹³

Exploitative uses of market power in Yemen ?

"Increases of wheat prices are because of wholesaler's monopolization of food commodities such as **wheat, flour** and **sugar**," said Hamid Al-Ruzaiqi, foodstuff retailer.

(...)

"The country is careless because it does not fix suitable prices for commodities and does not punish merchants who play with prices," added Al-Ruzaiqi.

(...)

"The price of **cooking oil** for example, despite being low internationally, sometimes also fluctuates [in Yemen] to sell it faster," he added to illustrate how the same tactic is sometimes also used to better market other commodities.

Ramadan in Yemen

Monopoly Causes Price-Rise

The Yemen Society for Consumer Protection attributed price-rise during Ramadan to traders' monopoly and increase of demand. It added that the consumers may be in control of the situation by purchasing only the basic necessities.

Ramadan in Yemen: Market Boost & Income Increase

Cement cartel in UAE ?

DCCI critical of cement cartel

A survey by the Dubai Chamber of Commerce and Industry has identified a monopolising of the cement market by some traders as the **major reason for the recent cement price hike**, reported Gulf News. Last month the UAE authorities brokered an agreement to fix cement prices at Dhs15 a bag.

Zawya, Monday, July 12 – 2004

Cement cartel in Abu Dhabi?

Wednesday, 30 Apr, 2008

Cement prices have escalated by more than 30% over the past few months with many of the biggest contracting names in the country alleging that cement prices are being manipulated by a cartel formed by the cement suppliers within the industry. However, cement companies have dismissed the allegation.

!الاحتكار محميّة قانونيّة في لبنان



نصف مبيعات الأسواق بيد «القلّة»... والنتائج: ارتفاع الأسعار

Does a small open economy need competition : the case of Lebanon¹

« The trade deficit was always quite high as the Lebanese people continue to rely on imports for most of its consumption. (...) Although the Lebanese economy is quite open to the rest of the world as its balance of trade shows, it has been insulated from it as far as its impact on the economic indicators. **When prices outside of Lebanon go up, the price of imported goods in Lebanon certainly go up too, but not necessarily by the same proportion. When prices outside Lebanon go down, the price of imported goods in Lebanon do not necessarily follow, due to the lack of competition in the most important sectors »**

1) From « Competition Issues in Lebanon », by **Louis G. Hobeika**, presented at the Expert group on Competition Laws and Policies: Identification of Common Ground in ESCWA Member Countries Abu Dhabi 28-30 January 2002

The Cost of Not Having a Domestic Competition Law: Lebanon¹

The growth rate of Lebanon's GDP went from 3-4% in 1996 to 1998 to -1% in 1999 and -2% in 2000

« (...) lasting growth can only result from investment in the real economy i.e. in agriculture, manufacturing and all kinds of productive services. Lebanon was not able to attract (this) type of investment due to the internal and regional situation and due to its weak public, legal, economic and social institutions and infrastructures .»

« Economic growth in Lebanon has been hindered partly by weak competition in most sectors ».

1) From « Competition Issues in Lebanon », by **Louis G. Hobeika**, presented at the Expert group on Competition Laws and Policies: Identification of Common Ground in ESCWA Member Countries Abu Dhabi 28-30 January 2002

3-4) Competition, Investment and Development

A complex relationship

Foreign Direct Investors are Attracted by a Business Friendly Environment

An efficient, well-enforced, fair, transparent and predictable legal environment (counter examples Jamaica, Russia, Papua New Guinea).

A level playing field and protection against economic abuses by incumbents, whether they are competitors, suppliers, or customers (counter examples Hong Kong).

Foreign direct investors are attracted by profit opportunities

-Some profit opportunities are good both for investors and for the economic development of the country.

Some profit opportunities are good for investors but not so good for the economic development of the country because the expected profit comes from a commitment by the government to restrict competition in favor of the foreign investor. (examples: Western firms invested heavily in Eastern European countries in the 1990s under the condition that local governments would subsequently prevent other entries in their lines of business) .

The Effect of Foreign Direct investment on Competition¹

Foreign Direct Investment **can increase competition** (particularly in the case of greenfield investments)

But Foreign Direct Investment **can also reduce competition** (and therefore result in a loss for consumers). Therefore Competition law is also necessary to prevent anticompetitive practices or transactions resulting from FDIs.

1) See Unctad Investment Report 2000

Tunisie: Mohamed Bousbia, PDG du Groupe SFBT

« Mohamed Bousbia, a hissé la SFBT, en l'espace de vingt ans, dans le premier carré des entreprises privées tunisiennes. Il a fait de la SFBT en deux décennies après, l'un des tout premiers fleurons de l'industrie **nationale**. **Au point qu'il règne quasiment seul sur le secteur des boissons gazeuses et de la bière, étouffant au passage toute velléité de concurrence aux allures de défi - Tuborg, Pepsi sont passées par là.- A l'évidence, MB s'en défend et invoque la seule logique du marché. La SFBT n'utilise d'autres arguments que les armes de la compétitivité et du rapport qualité-prix. Elle ne fait que défendre ses parts de marché dans le respect des règles de la concurrence. En 20 ans, à force de développement, la SFBT a réussi à tisser sa toile, rendant ainsi le prix d'accès au marché extrêmement élevé. Ceux qui en ont fait l'expérience s'en mordent encore les doigts. »**

Tunisie: Mohamed Bousbia, PDG du Groupe SFBT

La réponse de Mohamed Bousbia :

« On reproche à la SFBT d'avoir asphyxié ses concurrents tels que Tuborg, Pepsi. Partout dans le monde, quand on est une grande marque, on est forcément constamment exposé à la concurrence et aux guerres commerciales; soit on perd, soit on gagne. Heureusement, en Tunisie, les perdants ne perdent pas tout et peuvent récupérer une partie de leur mise sous forme d'un compromis honorable pour toutes les parties. C'est ce qui s'est passé avec Pepsi, par exemple, puisqu'on a réussi à maintenir les emplois. Nous avons donc repris l'activité en associant avec nous les anciens actionnaires. C'est une affaire qui est désormais devenue viable. Les banques ont pu également récupérer leurs mises ».

**L'Economiste maghrébin :Manager de l'année: Mohamed Bousbia - SFBT –
(N° 307) Quinzaine du 15/ 09/ 2004 au 29/ 09/ 2004.**

29 Octobre 2008: Boujbel casse le monopole de la SFBT

La Société Nouvelle de Brasserie (Sonobra SA), joint-venture entre le groupe Heineken International et le groupe Boujbel, a officiellement **inauguré le mardi 28 octobre 2008, sa nouvelle brasserie située à Grombalia (30 Km de Tunis)**. Fruit d'un investissement de près de 53 millions de Dinars Tunisiens, cette brasserie, d'une capacité maximale de 200.000 hl, est déjà entrée en exploitation avec une marque de bière immédiatement disponible sur le marché et la plus connue qui ne sera disponible que le 5 janvier prochain.

Il est à noter surtout, dans **ce nouvel investissement**, qu'il **casse surtout le monopole de la bière qu'avait la SFBT de Hammadi Boussbia et son groupe** qui sont déjà sur la cote de la Bourse de Tunis et compte un important flottant parmi les petits investisseurs et épargnants tunisiens

Houblon.net « Portrait de Castel », Mai 2008

D'homme à homme. Au fil des années, son carnet d'adresses s'étoffe. Les chefs d'Etat africains sont ses « amis ». « Si l'on me fait une petite crasse, je les appelle pour qu'ils règlent le problème », dit-il.

Comme les importations des commerçants libanais en République centrafricaine. « J'ai dit aux autorités : Si vous ne bloquez pas ça, je gèle mes investissements. »

Même chose en Côte d'Ivoire, où le Français exploite l'un des principaux complexes sucriers, la Sucaf. Au printemps, il demande à être reçu par Laurent Gbagbo pour faire stopper la contrebande qui sévit aux frontières. Quelques semaines après, le gouvernement ivoirien interdit l'importation de sucre pour deux ans ! Explication de la sœur de Castel, Christiane : « Nous sommes des gens de parole. » Traduction de Pierre : « Moi, je n'ai aucune casserole aux fesses ! »

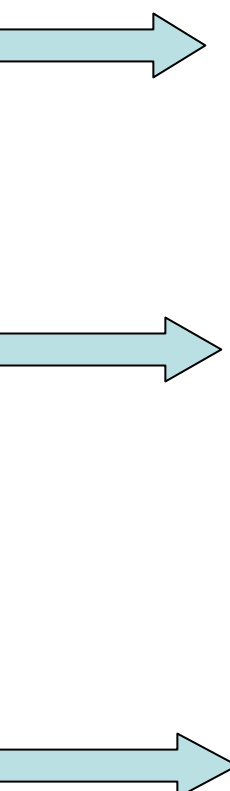
5) Competition and International Trade

Les cartels internationaux et les pays en voie de développement

À des degrés divers, les filiales du groupe **Castel** enregistrent des performances (importantes). Au total, selon **SAB Miller**, Castel aurait vendu 13,4 millions d'hectolitres de bière en 2007 (+ 5,5 %). Ces chiffres reposent sur une alliance nouée en 2001, qui permet aux deux groupes de protéger leurs deux zones de prédilection, sans se livrer une concurrence acharnée et tout en ouvrant la porte à quelques produits ciblés. Organisation d'un monopole ?

« Cet accord nous a permis de développer des opportunités », justifie le directeur de la communication de SABMiller, Najil Fairbass. Avant d'ajouter : « Il y a éventuellement des lois antitrust au niveau national mais pas à l'échelle du continent. Je ne vois donc pas où est le problème. »

International cooperation can help competition authorities regain part of their operational sovereignty

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- **Scope** Bilateral (EU/USA USA/Can. Aust/NZ)
Regional (UEMOA)
Plurilateral (OECD)
Multilateral (Unctad, WTO?)
 - **Levels** Consultations
Exchange of non confidential information
Positive and negative comity
Joint investigations
Exchange of confidential information
 - **Types** « optional » (ex bilateral)
« commitments » (ex WTO)

Conclusions

- 1) Competition Law Enforcement is a Necessary Complement to Trade Liberalization and Deregulation in Developing Countries.**
- 2) Even if Competition Law is Not the Only Tool of Economic Development, it Can Play a Useful Role in Promoting Growth by Eliminating Exclusionary and Exploitative Practices By Firms Having Individual or Collective Market Power.**
- 3) An Effectively Enforced and Fair Competition Law is a Necessity for Developing Countries Trying to Attract FDIs Both Because it Signals Their Willingness to Eliminate Exclusionary Practices by Domestic Firms and Because It Allows Them, When Necessary, to Remedy the Negative Consequences of FDIs on Consumer's Surplus.**
- 4) International Cooperation in Competition Enforcement Against Transnational Anticompetitive Practices is Crucially Important for Developing Countries.**